

Federal Reserve System

§ 226.33

written agreement signed by the consumer, the creditor, and the contractor prior to the disbursement.

(3) *Notice to assignee.* Sell or otherwise assign a mortgage subject to this section without furnishing the following statement to the purchaser or assignee: "Notice: This is a mortgage subject to special rules under the federal Truth in Lending Act. Purchasers or assignees of this mortgage could be liable for all claims and defenses with respect to the mortgage that the borrower could assert against the creditor."

[Reg. Z, 60 FR 15472, Mar. 24, 1995, as amended at 60 FR 29969, June 7, 1995]

§ 226.33 Requirements for reverse mortgages.

(a) *Definition.* For purposes of this subpart, *reverse mortgage transaction* means a nonrecourse consumer credit obligation in which:

(1) A mortgage, deed of trust, or equivalent consensual security interest securing one or more advances is created in the consumer's principal dwelling; and

(2) Any principal, interest, or shared appreciation or equity is due and payable (other than in the case of default) only after:

- (i) The consumer dies;
- (ii) The dwelling is transferred; or
- (iii) The consumer ceases to occupy the dwelling as a principal dwelling.

(b) *Content of disclosures.* In addition to other disclosures required by this part, in a reverse mortgage transaction the creditor shall provide the following disclosures in a form substantially similar to the model form found in paragraph (d) of Appendix K of this part:

(1) *Notice.* A statement that the consumer is not obligated to complete the reverse mortgage transaction merely because the consumer has received the disclosures required by this section or has signed an application for a reverse mortgage loan.

(2) *Total annual loan cost rates.* A good-faith projection of the total cost of the credit, determined in accordance with paragraph (c) of this section and expressed as a table of "total annual loan cost rates," using that term, in

accordance with Appendix K of this part.

(3) *Itemization of pertinent information.* An itemization of loan terms, charges, the age of the youngest borrower and the appraised property value.

(4) *Explanation of table.* An explanation of the table of total annual loan cost rates as provided in the model form found in paragraph (d) of Appendix K of this part.

(c) *Projected total cost of credit.* The projected total cost of credit shall reflect the following factors, as applicable:

(1) *Costs to consumer.* All costs and charges to the consumer, including the costs of any annuity the consumer purchases as part of the reverse mortgage transaction.

(2) *Payments to consumer.* All advances to and for the benefit of the consumer, including annuity payments that the consumer will receive from an annuity that the consumer purchases as part of the reverse mortgage transaction.

(3) *Additional creditor compensation.* Any shared appreciation or equity in the dwelling that the creditor is entitled by contract to receive.

(4) *Limitations on consumer liability.* Any limitation on the consumer's liability (such as nonrecourse limits and equity conservation agreements).

(5) *Assumed annual appreciation rates.* Each of the following assumed annual appreciation rates for the dwelling:

- (i) 0 percent.
- (ii) 4 percent.
- (iii) 8 percent.

(6) *Assumed loan period.* (i) Each of the following assumed loan periods, as provided in Appendix L of this part:

- (A) Two years.
- (B) The actuarial life expectancy of the consumer to become obligated on the reverse mortgage transaction (as of that consumer's most recent birthday). In the case of multiple consumers, the period shall be the actuarial life expectancy of the youngest consumer (as of that consumer's most recent birthday).

(C) The actuarial life expectancy specified by paragraph (c)(6)(i)(B) of this section, multiplied by a factor of 1.4 and rounded to the nearest full year.

(ii) At the creditor's option, the actuarial life expectancy specified by paragraph (c)(6)(i)(B) of this section, multiplied by a factor of .5 and rounded to the nearest full year.

**APPENDIX A TO PART 226—EFFECT ON
STATE LAWS**

REQUEST FOR DETERMINATION

A request for a determination that a State law is inconsistent or that a State law is substantially the same as the Act and regulation shall be in writing and addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551. The request shall be made pursuant to the procedures herein and the Board's Rules of Procedure (12 CFR Part 262).

SUPPORTING DOCUMENTS

A request for a determination shall include the following items:

- (1) The text of the State statute, regulation, or other document that is the subject of the request.
- (2) Any other statute, regulation, or judicial or administrative opinion that implements, interprets, or applies the relevant provision.
- (3) A comparison of the State law with the corresponding provision of the Federal law, including a full discussion of the basis for the requesting party's belief that the State provision is either inconsistent or substantially the same.
- (4) Any other information that the requesting party believes may assist the Board in its determination.

PUBLIC NOTICE OF DETERMINATION

Notice that the Board intends to make a determination (either on request or on its own motion) will be published in the FEDERAL REGISTER, with an opportunity for public comment, unless the Board finds that notice and opportunity for comment would be impracticable, unnecessary, or contrary to the public interest and publishes its reasons for such decision.

Subject to the Board's Rules Regarding Availability of Information (12 CFR Part 261), all requests made, including any documents and other material submitted in support of the requests, will be made available for public inspection and copying.

NOTICE AFTER DETERMINATION

Notice of a final determination will be published in the FEDERAL REGISTER, and the Board will furnish a copy of such notice to the party who made the request and to the appropriate State official.

Reversal of Determination

The Board reserves the right to reverse a determination for any reason bearing on the coverage or effect of State or Federal law.

Notice of reversal of a determination will be published in the FEDERAL REGISTER and a copy furnished to the appropriate State official.

[Reg. Z, 46 FR 20892, Apr. 7, 1981; 46 FR 29246, June 1, 1981]

**APPENDIX B TO PART 226—STATE
EXEMPTIONS**

APPLICATION

Any State may apply to the Board for a determination that a class of transactions subject to State law is exempt from the requirements of the Act and this regulation. An application shall be in writing and addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, and shall be signed by the appropriate State official. The application shall be made pursuant to the procedures herein and the Board's Rules of Procedure (12 CFR Part 262).

SUPPORTING DOCUMENTS

An application shall be accompanied by:

- (1) The text of the State statute or regulation that is the subject of the application, and any other statute, regulation, or judicial or administrative opinion that implements, interprets, or applies it.
- (2) A comparison of the State law with the corresponding provisions of the Federal law.
- (3) The text of the State statute or regulation that provides for civil and criminal liability and administrative enforcement of the State law.
- (4) A statement of the provisions for enforcement, including an identification of the State office that administers the relevant law, information on the funding and the number and qualifications of personnel engaged in enforcement, and a description of the enforcement procedures to be followed, including information on examination procedures, practices, and policies. If an exemption application extends to federally chartered institutions, the applicant must furnish evidence that arrangements have been made with the appropriate Federal agencies to ensure adequate enforcement of State law in regard to such creditors.
- (5) A statement of reasons to support the applicant's claim that an exemption should be granted.

PUBLIC NOTICE OF APPLICATION

Notice of an application will be published, with an opportunity for public comment, in the FEDERAL REGISTER, unless the Board finds that notice and opportunity for comment would be impracticable, unnecessary,